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FISCAL IMPACT STATEMENT

LS 6691

BILL NUMBER: SB 222

NOTE PREPARED: Feb 19, 2004

BILL AMENDED: Feb 20, 2004

SUBJECT: Financial Institutions Matters.

FIRST AUTHOR: Sen. Long

FIRST SPONSOR: Rep. Bardon

BILL STATUS: CR Adopted - 2nd House

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) The bill permits the Secretary of State to administratively dissolve a business entity whose name contains the term "banc" or "banco" in violation of financial institutions law. (Current law allows the Secretary of State to take this action in the case of an entity whose name contains the term "bank".) The bill permits the use of the word "bank", "banc", or "banco" in the name of a subsidiary of: (1) a bank or trust company; and (2) a bank holding company. The bill permits the use of the word "bank", "banc", or "banco" in the name of a subsidiary of a savings bank or savings association.

The bill updates references in financial institutions law to conform with federal law. The bill permits a state chartered financial institution to engage in activities related to a product, a service, or an investment that is available to or offered by national banks domiciled in Indiana.

The bill removes limitations on the amount of public funds that may be deposited in a credit union. (Currently, deposits of public funds are limited to 10% of total credit union assets.) The bill increases the minimum amount of the bond required for a money transmitter from \$100,000 to \$200,000 and the maximum amount from \$200,000 to \$300,000. The bill increases the insurance coverage required for a money transmitter for criminal or dishonest acts from 50% to 100% of the amount of the money transmitter's security bond or deposit.

The bill provides that state law applies to a state chartered bank, trust company, savings association, savings bank, credit union, corporate fiduciary, or industrial loan and investment company to the same extent it applies to a federally chartered institution of the same type. The bill establishes administrative procedures governing requests for an exemption from state law due to the preemption of state law as it is applied to federally chartered institutions.

The bill authorizes the Director of the Department of Financial Institutions to appoint a person to fill a vacancy on the board of directors of a financial institution under certain circumstances. The bill makes an investment management or a custody account with a trust company or trust division of a bank with trust powers subject to the uniform act on transfer on death securities. The bill prohibits a lender from requiring a borrower to obtain hazard insurance in an amount exceeding the replacement value of the improvements on mortgaged property as a condition of receiving or maintaining the mortgage.

Effective Date: (Amended) Upon passage; July 1, 2004.

Explanation of State Expenditures: (Revised) *Names of Banks:* Under the bill, the Secretary of State would be required to take action to dissolve a business entity for use of the terms *banc* or *banco*. Given that non-authorized business entities may not use the terms *banc* or *banco* under current financial institutions law, the fiscal impact to state expenditures under the provision should be minimal.

Preemption of State Law: Under the bill, the Department of Financial Institutions could experience additional administrative time to analyze and conduct hearings regarding state-chartered entities (as listed above) that seek exemption from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 due to preemption of federal law. The Department's current resources should be sufficient to carry out this provision.

Non-member State Government Credit Union Deposits: The bill would increase the percentage of public funds received from state government that a credit union may have on deposit from 10% of the credit union's assets to 20% of the credit union's assets (less the public amount received.)

Background: Under current law (P.L. 277-2001), the Secretary of State is required to hold a proceeding against business entities illegally using the term *bank*. Current law also requires the Department of Financial Institutions to make the determination if a business entity has violated the general provisions for banks and trust companies including IC 28-1-20-4. Under IC 28-1-20-4, a person, firm, limited liability company, or corporation other than a bank or trust company, bank holding company, or a corporate fiduciary may not use the terms *bank*, *banc*, or *banco* within the entity's name or title. Violators of this section are fined a penalty of \$500 per day over the duration of the violation.

There have been a handful of actions that the Department of Financial Institutions has taken against entities illegally using the term *bank* since P.L. 277-2001 was enacted. The Secretary of State reports that they process an average of 1,200 administrative dissolutions per month for all reasons. The vast majority of dissolutions are for nonpayment of business entity filing reports. There are no known occurrences of a dissolution for the illegal use of the name *bank* in CY 2003.

Explanation of State Revenues: (Revised) *Names of Banks:* The bill would amend IC 28-1-20-4. The bill's provision would widen the scope of entities that would be able to use the terms *banc* or *banco* to include a subsidiary of either a bank/trust company or a bank holding company, or a subsidiary of either a savings bank or savings association. Potentially, this provision could reduce the number of penalties placed against violators. The impact of this provision to state revenue should be minimal.

Money Transmitters: Under the bill, money transmitters would be required to post a security device of a minimum amount of \$200,000 and a maximum amount of \$300,000. Additionally, insurance policies of money transmitters for criminal or dishonest acts would equal 100% of the required security device, a minimum of \$200,000. (Under current law, insurance policy amounts must equal 50% of the required security device.) Money transmitters, under current law, must present a security device with an application for a license with the Department.

Background: In FY 2003, \$14,038 was collected in money transmitter license fees. Money transmitter license fees are deposited into the Financial Institutions Fund. The current license fee is \$200 plus an additional \$5 per agent not to exceed \$1,000. As of January 10, 2004, there were 28 money transmitters licensed to conduct business in Indiana.

Explanation of Local Expenditures: (Revised) *Preemption of State Law:* The bill would allow a state-chartered financial institution to appeal decisions made by the Department regarding exemption from Indiana Code provisions that are preempted for federally chartered financial institutions. Appeals would be conducted in the circuit court of the county where the principal office of the requesting institution is located.

Non-member Local Government Credit Union Deposits: As for state governments listed above, a credit union would be allowed, under the bill, to hold up to 20% of their total assets as funds received from a county or political subdivision (less the public amount deposited.)

Explanation of Local Revenues:

State Agencies Affected: Department of Financial Institutions, Secretary of State.

Local Agencies Affected: Circuit courts.

Information Sources: John Schroeder, Department of Financial Institutions; Department of Financial Institutions website: www3.dfi.state.in.us/; Liz Keele, Corporations Division, Secretary of State; *Indiana Handbook of Taxes, Revenues, and Appropriations, FY 2003*.

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